

ASSEMBLY BILL

No. 755

Introduced by Assembly Member Galgiani

February 17, 2011

An act to amend Sections 290.012, 290.014, and 290.015 of, and to add Sections 294.5, 294.7, and 9004 to, the Penal Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 755, as introduced, Galgiani. Sex offenders: CAL E-STOP.

Existing law, the Sex Offender Registration Act, requires persons who have been convicted of specified sex offenses to register with local law enforcement. Existing law requires that the registration include the person's address, fingerprints, current photograph, and license plate number. Existing law requires the registrant to update his or her registration annually, upon moving, or upon changing his or her name. Under existing law, failure to register is a crime. Existing law provides that a person who is required to register who willfully violates any requirement of the act is guilty of either a misdemeanor or a felony, as specified.

This bill would additionally require that the registration include a list of all Internet identifiers and service providers, as defined, used by the person. The bill would require the registrant to update this information, as specified. By increasing the scope of a crime, this bill would create a state-mandated local program.

The bill would require, by July 1, 2012, any person or entity that collects and makes available, in any format, the personal data of California minors, to certify with the Department of Justice a plan to obtain information and implement reasonable policies to restrict or

block access to that information by persons required to register pursuant to the Sex Offender Registration Act. The bill would require the department to issue guidelines for the certification process by March 1, 2012.

Existing law establishes the Sex Offender Management Board, as specified, under the jurisdiction of the Department of Corrections and Rehabilitation. The purpose of the board is to address any issues, concerns, and problems related to the community management of the state's adult sex offenders, with a goal of safer communities and reduced victimization.

This bill would require the board to conduct a study of sex offender evaluation tools for efficacy and further development. The bill would require that the study evaluate alternatives to the STATIC 99 sex offender evaluation tool and provide recommendations.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known as the California
2 Electronic Security and Targeting of Online Predators Act (CAL
3 E-STOP).
4 SEC. 2. Section 290.012 of the Penal Code is amended to read:
5 290.012. (a) Beginning on his or her first birthday following
6 registration or change of address, the person shall be required to
7 register annually, within five working days of his or her birthday,
8 to update his or her registration with the entities described in
9 subdivision (b) of Section 290. At the annual update, the person
10 shall provide current information as required on the Department
11 of Justice annual update form, including the information described
12 in paragraphs (1) to ~~(3)~~ (5), inclusive, of subdivision (a) of Section
13 290.015. The registering agency shall give the registrant a copy
14 of the registration requirements from the Department of Justice
15 form.

(b) In addition, every person who has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, shall, after his or her release from custody, verify his or her address no less than once every 90 days and place of employment, including the name and address of the employer, in a manner established by the Department of Justice. Every person who, as a sexually violent predator, is required to verify his or her registration every 90 days, shall be notified wherever he or she next registers of his or her increased registration obligations. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notice shall be a defense to the penalties prescribed in subdivision (f) of Section 290.018.

(c) In addition, every person subject to the ~~Act~~ *act*, while living as a transient in California shall update his or her registration at least every 30 days, in accordance with Section 290.011.

(d) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN).

SEC. 3. Section 290.014 of the Penal Code is amended to read:

290.014. (a) If any person who is required to register pursuant to the ~~Act~~ *act* changes his or her name, the person shall inform, in person, the law enforcement agency or agencies with which he or she is currently registered within five working days. The law enforcement agency or agencies shall forward a copy of this information to the Department of Justice within three working days of its receipt.

(b) *If any person who is required to register pursuant to the act adds or changes his or her account with an Internet service provider or adds or changes an Internet identifier, the person shall send written notice of the addition or change to the law enforcement agency or agencies with which he or she is currently registered within 24 hours. The law enforcement agency or agencies shall make this information available to the department or a third-party that has obtained a certification from the department pursuant to Section 294.7, upon request. Each person to whom this subdivision applies at the time this subdivision becomes effective shall immediately provide the information required by this subdivision.*

SEC. 4. Section 290.015 of the Penal Code is amended to read:

290.015. (a) A person who is subject to the ~~Act~~ *act* shall register, or reregister if the person has previously registered, upon release from incarceration, placement, commitment, or release on probation pursuant to subdivision (b) of Section 290. This section shall not apply to a person who is incarcerated for less than 30 days if he or she has registered as required by the ~~Act~~ *act*, he or she returns after incarceration to the last registered address, and the annual update of registration that is required to occur within five working days of his or her birthday, pursuant to subdivision (a) of Section 290.012, did not fall within that incarceration period. The registration shall consist of all of the following:

(1) A statement in writing signed by the person, giving information as shall be required by the Department of Justice and giving the name and address of the person's employer, and the address of the person's place of employment if that is different from the employer's main address.

(2) The fingerprints and a current photograph of the person taken by the registering official.

(3) The license plate number of any vehicle owned by, regularly driven by, or registered in the name of the person.

(4) *A list of any and all Internet identifiers established or used by the person.*

(5) *A list of any and all Internet service providers used by the person.*

(6) *A statement in writing signed by the person acknowledging that the person is required to register and update the information in paragraphs (4) and (5), as required by this chapter.*

~~(4)~~

(7) Notice to the person that, in addition to the requirements of the ~~Act~~ *act*, he or she may have a duty to register in any other state where he or she may relocate.

~~(5)~~

(8) Copies of adequate proof of residence, which shall be limited to a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person's name and address, or any other information that the registering official believes is reliable. If the person has no residence and no reasonable expectation of obtaining a residence in the foreseeable future, the

1 person shall so advise the registering official and shall sign a
2 statement provided by the registering official stating that fact.
3 Upon presentation of proof of residence to the registering official
4 or a signed statement that the person has no residence, the person
5 shall be allowed to register. If the person claims that he or she has
6 a residence but does not have any proof of residence, he or she
7 shall be allowed to register but shall furnish proof of residence
8 within 30 days of the date he or she is allowed to register.

9 (b) Within three days thereafter, the registering law enforcement
10 agency or agencies shall forward the statement, fingerprints,
11 photograph, and vehicle license plate number, if any, to the
12 Department of Justice.

13 SEC. 5. Section 294.5 is added to the Penal Code, to read:

14 294.5. For purposes of this chapter, the following terms apply:

15 (a) "Internet service provider" means any business, organization,
16 or other entity providing directly to consumers a computer and
17 communications facility through which a person may obtain access
18 to the Internet. An Internet service provider does not include a
19 business, organization, or other entity that provides only
20 telecommunications services, cable services, or video services, or
21 any system operated or services offered by a library or educational
22 institution.

23 (b) "Internet identifier" means any electronic mail address, user
24 name, screen name, or similar identifier used for the purpose of
25 Internet forum discussions, Internet chat room discussions, instant
26 messaging, social networking, or similar Internet communication.

27 SEC. 6. Section 294.7 is added to the Penal Code, to read:

28 294.7. (a) By July 1, 2012, any person or entity that collects
29 and makes publicly available, in any format, the personal data of
30 California minors shall certify with the Department of Justice a
31 plan to obtain information from law enforcement agencies and
32 implement reasonable policies to restrict or block access to that
33 information by persons required to register pursuant to the Sex
34 Offender Registration Act.

35 (b) The department shall issue guidelines for the certification
36 process specified in subdivision (a) by March 1, 2012.

37 SEC. 7. Section 9004 is added to the Penal Code, to read:

38 9004. The Sex Offender Management Board shall conduct a
39 study of sex offender evaluation tools for efficacy and further

1 development. The study shall evaluate alternatives to the STATIC
 2 99 sex offender evaluation tool and provide recommendations.
 3 SEC. 8. No reimbursement is required by this act pursuant to
 4 Section 6 of Article XIII B of the California Constitution because
 5 the only costs that may be incurred by a local agency or school
 6 district will be incurred because this act creates a new crime or
 7 infraction, eliminates a crime or infraction, or changes the penalty
 8 for a crime or infraction, within the meaning of Section 17556 of
 9 the Government Code, or changes the definition of a crime within
 10 the meaning of Section 6 of Article XIII B of the California
 11 Constitution.